IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRI.REVISION APPLICATION NO. 395 OF 2004

IN
Cri. Appeal No. 230/2003

Shri Vinod Jairam Patil .. Applicant.

V/s.

Jitendra Manik Raut & Anr. .. Respondents.

Shri P.N.G. Shukla for the Applicant.
Shri A.S. Gadkari, APP for the Respondent No.2-State.

CORAM : A.M.KHANWILKAR, J.
DATED : MARCH 01, 2005

PC :-

. Heard counsel for the parties.

2. The view taken by the court below as can be discerned from the discussion in para-3 of the decision, is a possible view. In sofar as, the complainant - PW-1 is concerned, as he was not in a position to see as to who had given the blow, his evidence cannot be the basis to convict the accused. The only evidence is that of PW-2 Devale. That evidence has been discarded by the appellate court on appreciating the evidence in its proper perspective. I see no reason to depart from the approach adopted by

the appellate court in appreciating the evidence of PW-2. It is not open for this court to re-appreciate that evidence and substitute the view that has been taken by the final fact finding court. As there is no other independent eye witness to the incident, it will be unsafe to convict the accused on the basis of such inadequate evidence. Hence, no reason to interfere with the findings of the court below. Dismissed.

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